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Office of the Legislative Auditor

State of Montana

Report to the Legislature

June 1993

Performance Audit Follow-up

Motor Vehicle Recycling and Disposal Program

Department of Health and Environmental Sciences

This report contains follow-up information on recommendations from a performance audit of the Motor Vehicle Recycling and Disposal Program (89P-28). Follow-up areas included:

- Junk Vehicle Program enforcement.
- Management controls.
- Update of revenues, expenditures, and fund balance.

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June 1993

The Legislative Audit Committee
of the Montana State Legislature:

We conducted a follow-up review of a performance audit of the Montana Motor Vehicle Recycling and Disposal Program of the Department of Health and Environmental Sciences, referred to as the Junk Vehicle Program. This report summarizes the implementation status of the original audit recommendations concerning program operations at the state and county levels.

We wish to express our appreciation to the Department of Health and Environmental Sciences and to county program staff for their cooperation and assistance with this follow-up.

Respectfully submitted,

Scott A. Seacat
Legislative Auditor

Office of the Legislative Auditor

Performance Audit Follow-up

Motor Vehicle Recycling and Disposal Program

Department of Health and Environmental Sciences

Members of the audit staff involved in this audit were Dave Gould and Susan Jensen.

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Appointed and Administrative Officials

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Environmental Sciences Division

Duane Robertson, Bureau Chief
Solid and Hazardous Waste Bureau

Roger Thorvilson, Section Supervisor
Waste Management Section

Darrell Stankey, Program Manager
Junk Vehicle Program

Chapter I - Introduction

Introduction

We performed a follow-up review of the 1990 performance audit (89P-28) of the Department of Health and Environmental Sciences Motor Vehicle Recycling and Disposal Program. The Solid and Hazardous Waste Bureau of the Montana Department of Health and Environmental Sciences administers the Motor Vehicle Recycling and Disposal Act through the Junk Vehicle Program.

The Junk Vehicle Program is responsible for promoting recycling and improving the aesthetics of Montana by requiring all junk vehicles to be screened from public view and all motor vehicle wrecking facilities to be screened and licensed. The program regulates 214 motor vehicle wrecking facilities and 60 county motor vehicle graveyards.

The Junk Vehicle Program staff includes 2.5 full time equivalent (FTE) positions responsible for licensure of wrecking facilities and county motor vehicle graveyards. In addition, the program has authority for .18 FTE for legal support, which is presently vacant. Responsibilities of program staff includes administration of 18-month conditional approvals for new licensing and conducting related environmental assessments. In addition, staff review county junk vehicle budgets, conduct oversight of junk vehicle disposal contracts, review wrecking facility inspection reports, and assist with the formation of compliance plans.

During the 1991 Legislative Session, clarification of statutes was completed. As a result, the department created and/or amended applicable administrative rules.

Follow-up Objectives

Objectives for this follow-up review were to:

1. Determine implementation of audit recommendations.
2. Review compliance with new legislation and rules.
3. Provide up-dated information on program revenues, program expenditures, and fund balance.

Chapter I - Introduction

Scope and Methodology

A review of program files, interviews with state and county program staff, and inspections of county motor vehicle graveyards and wrecking facilities were completed to evaluate implementation of the 15 audit recommendations.

We identified new statutes and rules established since completion of our audit. We reviewed state and county program compliance with these statutes and rules.

We compiled program revenues and expenditures since our audit, and presented Special Revenue Fund balances as reported by the program. We also included the program's forecasted revenues, expenditures, and fund balances; and justifications for the projections.

Follow-up Results

Our follow-up review determined the Junk Vehicle Program has fully implemented eight of the fifteen recommendations from our performance audit. The following table shows the status of the fifteen recommendations based on follow-up work performed.

Table 1

Recommendation Status
(based upon follow-up)

Implemented	8
Partially Implemented	3
Not Yet Implemented	4
Total	15

Source: Compiled by the Office of the Legislative Auditor

We summarize the status of the fifteen recommendations in Chapter II of this follow-up. The major concerns continue to be inadequate enforcement of statutory requirements and the need for formal, documented policies and procedures.

We found the Junk Vehicle Program to be generally in compliance with new/amended state laws and administrative rules. We also found current program funding appears to be adequate for continued program operation.

Chapter II - Recommendation Status

Introduction

This chapter examines the status of each recommendation made in the initial audit report. Discussion of each recommendation is organized as follows:

1. Audit Area Title.
2. Recommendation.
3. Initial agency response.
4. Present implementation status.

Budget Approval Process is Being Used to Ensure Compliance

Recommendation #1
We recommend the department enforce county motor vehicle graveyard compliance through the budget approval process.

Initial Agency Response
We concur.

Present Implementation Status
This recommendation is fully implemented. Our review found the Junk Vehicle Program is using the budget approval process, as well as compliance plans, in an effort to enforce county motor vehicle graveyard compliance.

Program staff sent memorandums to all county motor vehicle graveyard directors explaining the necessity for county programs to review graveyard shielding needs and budget the necessary funds for repairs. The memorandums stressed the importance of compliance and explained violations are to be resolved or program funding would be withheld.

Program staff suggest there is only a moderate need to use county budgets as a means to enforce compliance because there are very few counties disputing compliance concerns. One county has basically refused to implement program guidelines. Funding was withheld by the Junk Vehicle Program. Staff are currently negotiating with the county in an attempt to re-institute the program.

The program requires counties with identified compliance concerns to have compliance plans in place. These compliance plans cite the violations and in most cases document the date of required compliance.

Standard Inventory Procedures Should be Developed

Recommendation #2

We recommend the department develop and require use of standard inventory procedures and release of vehicle ownership forms by the counties.

Initial Agency Response

We concur. The inventory records that counties are required to keep on junk vehicle graveyards are identical from county to county. Each year during budget reviews the department staff notify counties of any inadequacies in the county's inventory records. Similarly, the counties are notified of any inventory problems when county junk vehicle graveyard inspections are performed by the department. As mentioned in the report, we believe that high county staff turnover along with county program modifications have resulted in many of the problems seen.

Present Implementation Status

This recommendation is partially implemented. We found the Junk Vehicle Program has not developed standardized inventory procedures. The program has developed and distributed a standard release of vehicle ownership form for use by the counties. Follow-up review verified counties are using the forms. However, the release of ownership form is only a portion of the inventory procedures used by the counties.

Our review determined inventory problems continue to exist. For example, section 75-10-513, MCA, requires county motor vehicle graveyards to submit to the state program information concerning junk vehicles received. County program staff are to complete a quarterly graveyard log sheet with vehicle identification information. We found not all counties are sending in quarterly graveyard log sheets as required by statute. Failure of counties to provide quarterly reports weakens inventory control oversight and monitoring by the Junk Vehicle Program.

Another inventory control problem identified was submission of titles and releases by county graveyard directors. After contractors crush the vehicles in a graveyard, directors are to send all titles and releases to the program office. State program staff then submit the information to the Department of Justice. The Department of Justice purges the outdated junk vehicle records from the motor vehicle records system. Failure of counties to submit titles and releases to state staff could increase the potential for misuse of titles and vehicle identification numbers.

The Junk Vehicle Program should develop standard inventory procedures to help ensure counties send in quarterly graveyard log sheets, and titles and releases in a timely manner.

Contract Specifications Revised

Recommendation #3

We recommend the department revise contract specifications and procedures to ensure the State is reimbursed for all recycled vehicles.

Initial Agency Response

We concur.

Present Implementation Status

This recommendation is fully implemented. The Junk Vehicle Program oversees contracts for the disposal of junk vehicles from county motor vehicle graveyards. Our review of the crushing contract used by the Junk Vehicle Program confirms the contract and program procedures ensure the State receives reimbursement for all recycled vehicles.

Contracts now stipulate a per ton rate for all material with a recyclable or salvageable value removed from the county motor vehicle graveyards. Bids are solicited based upon this figure. The contracts include a provision requiring additional junk vehicles received by graveyards to be subject to the terms of the contract. The current contracts also require submission of weight tickets by the contractor to confirm the actual tonnage of scrap metal.

State and County Responsibilities Clarified

Recommendation #4
We recommend the department seek legislative clarification of statutes pertaining to state and county enforcement responsibilities.

Initial Agency Response
We concur.

Present Implementation Status
This recommendation is fully implemented. The Junk Vehicle Program requested statutory clarification by the 1991 Legislature. Changes enacted by the legislature have been implemented by the program including amendment of its rules to reflect state and county enforcement responsibilities.

Statutes are now specific to the responsibility of the county directors. ". . .Each county, through its designated representative (county director) shall inspect each licensed motor vehicle wrecking facility within its boundaries. . ." Rules specify inspections are to be conducted at least annually.

In addition, statutes were clarified regarding decision criteria for licensing of wrecking facilities and county motor vehicle graveyards. A new statute also clarified injunction proceedings and the authority of the Department of Justice.

More Active Enforcement of Statutes and Rules and Establishment of Compliance Controls Needed

Recommendation #5
We recommend the department:
A. Actively enforce statutes and administrative rules.
B. Establish controls to ensure compliance concerns are identified, monitored, and resolved.
C. Implement a data processing system to document enforcement and compliance status.

Initial Agency Response to Part A of Recommendation #5
A. We conditionally concur. It has not been the policy of the Department of Health and Environmental Sciences to take a hard line approach to first time violations of the junk vehicle program when cooperation and persuasion will

bring about compliance. Since 1986 the program has had three different program officers. Each officer has attempted to work with violators in their own way or style hoping to bring about compliance. Regrettably, this has resulted in some of the on-going noncompliance problems noted in the report. Now that the program has a program officer that has been actively involved in the program for the last three years, we do not envision any further delays in the pursuit of compliance at motor vehicle wrecking facilities. With the proposed clarification of the statutes as detailed in this report and with increased involvement and training of county personnel we believe that the statutes and administrative rules of the program will be more actively enforced by both the department's staff and local county programs.

The following three sections address the status of these recommendations.

Enforcement Should be Strengthened

Present Implementation Status

Part A of this recommendation is not yet implemented. The Junk Vehicle Program has established a process for inspecting wrecking facilities and motor vehicle graveyards. Counties are statutorily responsible for completing annual inspections of the wrecking facilities and the state program is responsible for inspection of the county motor vehicle graveyards. However, our follow-up review found there are wrecking facilities and motor vehicle graveyards still operating with violations. There is a need for counties to complete more thorough inspections of the wrecking facilities to ensure the violations we have identified are resolved.

During our follow-up review, we inspected 12 wrecking facilities. We found 7 of the 12 facilities or 58.3 percent are operating with shielding violations. The following pictures show examples of licensed wrecking facilities with obvious shielding violations.

Picture 1

Examples of Wrecking Facility Shielding Violations

Source: Compiled by the Office of the Legislative Auditor.

During our review we found ten of these twelve facilities have not sent quarterly reports to Deer Lodge. As was previously mentioned, without these records the Department of Justice can not purge outdated records (page 7). Private wrecking facilities are statutorily required to send quarterly reports to the Department of Justice, Title and Registration Bureau. These reports provide information on all junk vehicles received during the quarter, stating the year, make, and complete identification number of each vehicle.

Even though these noncomplying facilities were inspected by county personnel prior to relicensing for the current year, none of these facilities have been identified as currently being in noncompliance. There are no compliance plans in place for these facilities.

According to a current report sent to the Junk Vehicle Program by the Title and Registration Bureau, many more wrecking facilities are not submitting their quarterly reports. The report states 156 of 214 or 72.9 percent of all state licensed wrecking facilities are not sending timely quarterly reports to Deer Lodge.

During our inspection of six county motor vehicle graveyards, we identified four or 66.7 percent of these facilities as being in noncompliance with current requirements. Violations found included inadequate shielding from public view and salvage control; vehicles stored in a disorderly manner; and debris in and around vehicle graveyards.

According to program documentation, these motor vehicle graveyards have not been inspected recently by the state program staff. There are no compliance plans in place for these facilities.

We also identified a business which appeared to be operating a wrecking facility, and is not licensed. The facility is advertised in the white pages of the phone book as an auto wrecking business and also has junk vehicles on its premises. This same facility was identified during our initial audit as a facility operating without a license and program staff were notified.

The program needs to further strengthen its enforcement process through more thorough inspections by county personnel and possibly periodic on-site inspections by state program staff for wrecking facilities and more timely inspection of county graveyards by state program staff.

The issue is discussed further under part B of this recommendations.

Licensing of Facilities Should be More Timely

We also identified a number of facilities operating with expired licenses. Wrecking facilities are required to operate with a license, effective from January 1 through December 31 of each year.

As of February 5, 1993, we identified 80 of 214 facilities (37.4 percent) which were not yet licensed for 1993. In addition, on March 24, 1993, 39 of 214 wrecking facilities (18.2 percent) were still not licensed for 1993. The following table documents our findings.

Table 2

Unlicensed Wrecking Facilities

AS OF 02/05/93:	
Active Facility, No Fee Received	28
Facility Pending Compliance Inspection, Fee Received	47
Facility Pending Compliance Inspection, No Fee Received	5
TOTAL	80
AS OF 03/24/93:	
Active Facility, No Fee Received	8
Facility Pending Compliance Inspection, Fee Received	26
Facility Pending Compliance Inspection, No Fee Received	5
TOTAL	39

Source: Compiled by the Office of the Legislative Auditor

The timing of wrecking facility inspections by the county and the licensing process are causing delays in licensing of facilities. In some cases facilities are being allowed to continue operations with an expired license.

Since current inspections are requested to be completed in October or November, this makes it difficult for program staff to implement compliance plans prior to the licensing deadline of January 1st. The timing also makes it difficult for wrecking facilities to correct problems prior to licensure. According to program staff, they have discussed changing the licensure year from January 1st through December 31st to July 1st through June 30th. Another option, rather than changing the licensure year (which would require statutory change), could be requiring county inspections to be completed earlier in the year, for example June or July.

If violations are identified, under either option, facilities would have more time to correct the concerns. The changes would allow wrecking facilities to correct violations during warmer weather months. The new time frame would also allow state staff time to implement probationary or provisional licenses (addressed in recommendation #6) if necessary.

Section 75-10-511, MCA, states "A person may not conduct, maintain, or operate a motor vehicle wrecking facility or motor vehicle graveyard without a license issued by the department (Department of Health and Environmental Sciences)." The Junk Vehicle Program should close wrecking facilities operating without a valid license. A facility should be closed until a compliance plan is in place, and if required, fees are received by the Junk Vehicle Program. The Junk Vehicle Program should also request statutory and administrative rule changes if the licensure time frame is changed.

Controls to Ensure Compliance Should be Strengthened

Initial Agency Response to Part B of Recommendation #5

B. We concur. Through legislative clarification of the Act, increased training and involvement of county staff and the use of the program's new facility tracking system the department will be able to quickly identify violations and follow compliance activities through to a final resolution.

Present Implementation Status

Part B of this recommendation is partially implemented. The Junk Vehicle Program has implemented controls to identify,

monitor and resolve violations; however, these controls are not ensuring timely compliance.

As was identified during our initial audit, our follow-up review again found licensed wrecking facilities operating with documented shielding and reporting violations. It appears, in some cases, that similar shielding violations are identified year after year, without notable improvement. Similar problems were also noted related to county junk vehicle graveyards.

As was mentioned in the discussion related to recommendation number four, the department proposed new statutes passed by the 1991 Legislature and amended rules. These statutes and rules were implemented to help ensure compliance concerns are identified by requiring county directors to complete annual inspections of their area wrecking facilities. To improve monitoring, the Junk Vehicle Program now sends management reports to county directors twice a year. These reports provide each county with a list of wrecking facilities in the county and history of compliance for each facility.

Program staff consider controls currently in place are adequate to resolve violations. Staff contend the lack of adequate state program legal support has hampered enforcement capabilities, even though some counties are pursuing legal remedies through their county attorneys.

The continuing problems discussed in this and the previous section raise questions about the adequacy of program controls to identify, monitor and resolve violations. The program needs to further strengthen these controls to ensure violations such as we identified during our follow-up are corrected on a timely basis.

Data Processing System in Operation

Initial Agency Response to Part C of Recommendation #5

C. We concur.

Present Implementation Status

Part C of this recommendation is fully implemented. The Junk Vehicle Program has implemented a data processing system to document enforcement and compliance status. The program uses

computer software to document enforcement of county motor vehicle graveyards and wrecking facilities, and compliance status of each.

Need for Probationary Motor Vehicle Wrecking Facility Licenses

Recommendation #6

We recommend the department implement administrative rules to allow for the issuance of probationary motor vehicle wrecking facility licenses.

Initial Agency Response

We conditionally concur. The department is unsure at this time whether current statutes will allow the issuance of probationary licenses without conflicts with other requirements. With the assistance of the department's legal staff we will explore the possibility of issuing probationary or temporary motor vehicle wrecking facility licenses along with other options that would provide the department with the ability to pursue compliance without issuing a full years' license to a facility.

Present Implementation Status

This recommendation is not yet implemented. Our initial audit recommended the program use probationary license to help ensure timely compliance by wrecking facilities. Junk Vehicle staff indicate they have researched this issue with their legal staff and have concluded the Junk Vehicle Program does not have current statutory authority to implement probationary licenses for wrecking facilities.

We again found the current licensing process is not assuring compliance by wrecking facilities. As was previously mentioned, we found licensed wrecking facilities operating with compliance violations (page 9). These violations include improper shielding, and/or improperly maintained inventory records, which includes submission of quarterly reports to the Department of Justice. We also found there are wrecking facilities operating with an expired license.

If Junk Vehicle legal staff believe the program does not have statutory authority to issue probationary or provisional licenses, the department should seek appropriate authority. During

licensure renewal or other applicable instances, the Junk Vehicle Program could issue probationary licenses to noncomplying facilities. These temporary license would expire on the date the compliance plan is to be completed. The program would then inspect the facility and issue a permanent license if the facility is in compliance. If the facility is not in compliance, the facility would have to cease operation when the probationary license expires.

Develop a Report to Provide Enforcement Status to County Staff

Recommendation #7

We recommend the department develop a report which would periodically provide information pertaining to motor vehicle wrecking facility enforcement status to county level staff.

Initial Agency Response

We concur.

Present Implementation Status

This recommendation is fully implemented. Twice a year the Junk Vehicle Program is providing county directors with management information identifying the last inspection date of area wrecking facilities, and concerns identified.

As was mentioned previously, review work found the Junk Vehicle Program receives information from the Department of Justice, Title & Registration Bureau identifying the wrecking facilities which have or have not submitted quarterly reports (page 11). According to program staff, a memorandum is sent annually to the county directors reminding them to check wrecking facilities for compliance with reporting statutes.

The program should continue to evaluate information needed by county directors and provide counties with appropriate documentation. (See policy and procedures Recommendation #9.)

Periodic Review of Goals and Objectives Status Needed

Recommendation #8
We recommend the department establish specific documented goals and objectives for the Junk Vehicle Program and conduct periodic reviews to determine attainment of the goals.

Initial Agency Response
We concur. Over the years the Junk Vehicle Program has had goals and objectives established. Unfortunately, the goals and objectives were not well documented. The department will work toward establishing specific documented goals and objectives for the program during the coming year and will be certain to include the findings and recommendations of this report as a part of those goals. We envision establishing an annual review of these goals to determine attainment and provide for modification of goals as needed.

Present implementation Status
This recommendation is partially implemented. During follow-up review we found the Junk Vehicle Program has established documented goals and objectives for the program. However, there is still a need for the program to conduct periodic status review of its goals and objectives. Without review of established goals and objectives there is no way to determine if the program is meeting its intent.

The Junk Vehicle Program does not currently provide county motor vehicle programs with copies of goals and objectives. Since county programs are an important part of the enforcement function, copies of goals and objectives and status reports should be provided to the counties.

Formal Policy and Procedure Manual Needed

Recommendation #9
We recommend the department develop specific policies and procedures for the Junk Vehicle Program.

Initial Agency Response
We concur. As indicated in the report the Junk Vehicle Program did not originally establish program policies and procedures to allow the county programs the latitude of establishing their own

procedures to fit in with the design of their individual program. However, the department did guide these programs toward the intent of the statutes and administrative rules. As the department and county duties are clarified by the legislature and as staff time permits, the department will establish specific policies and procedures for use by both the county and state program personnel.

Present Implementation Status

This recommendation is not yet implemented. Program staff have not been provided a formal policies and procedures manual. State staff send memorandums to inform county directors of program changes. The county programs also have a reference manual known as the "blue book" which contains information related to: 1) current statute and ARMs; 2) legal opinions; 3) violation notices used by counties; 4) complaints and enforcement; 5) program administration; 6) budgeting information; and 7) miscellaneous information.

Interviews with county program staff indicate there is uncertainty about policies and procedures. For example, one county director did not realize log sheets were required to be sent in quarterly. Also, there were several county staff who did not know they were to check wrecking facility records to ensure quarterly reports are sent into Deer Lodge.

Both department staff and county staff need formal policies and procedures. The Junk Vehicle Program should develop policies and procedures addressing the following topics:

1. County Motor Vehicle Graveyard Inspections
   - A. Shielding requirements
   - B. Inventory record keeping
   - C. Inspection time tables
   - D. Monitoring for compliance
   - E. Documentation of county enforcement
   - F. Compliance plan requirements

2. Wrecking Facility Inspections
   - A. Shielding requirements
   - B. Inventory record keeping
   - C. Compliance plan requirements
   - D. Inspection time tables

E. Monitoring for compliance
F. Revocation and suspension of existing licenses

3. Crushing Procedures
   A. Required documentation
   B. Collection
   C. Disposal

4. Abandoned Vehicle Procedures

5. Freon Venting Regulations

6. Sale of Junk Vehicles

7. Legal Procedures
   A. Authority of county directors.
   B. Implementing civil penalties through the department in conjunction with the county attorney, or Attorney General.
   C. Petition District Court to impose, assess, and recover civil penalties.

8. Designation of Director for County Motor Vehicle Program

A formal policies and procedures manual would provide an effective means of informing program staff at both the state and county level of what is expected. The manual should allow for addition or replacement of updated or new policies and procedures. A policy and procedure manual could provide guidance to correct the deficiencies identified during this follow-up review.

Training for County Staff Improved

Recommendation #10

We recommend the department provide additional training to county Junk Vehicle Program staff.

Initial Agency Response

We concur.

Present Implementation Status

This recommendation is fully implemented. The department conducted one seminar (fall 1990) since completion of our initial audit. Previous to our audit, training was completed in 1981 and 1988. Training was scheduled for fall of 1992, however, it was

not completed due to change-over in state program personnel. Staff indicated another seminar is scheduled for fall of 1993, then biennially there after.

The program should continue to emphasize training. Additional training will serve to guide county personnel in performing program functions in a consistent and accurate manner.

Inspections of County Motor Vehicle Graveyards Should be More Timely

Recommendation #11

We recommend the department conduct timely inspections of county motor vehicle graveyards.

Initial Agency Response

We concur. In the past the limitations of the department's staff have mandated that their time be spent pursuing compliance problems at more visible motor vehicle wrecking facilities for which public complaints had been received. As a result, the county motor vehicle graveyard inspections were given a low priority. However, with the proposed legislative clarification of county program responsibilities and with increased involvement of the counties in the monitoring and enforcement at motor vehicle wrecking facilities, the department's staff will be able to give county motor vehicle graveyards a higher priority and increase inspections of these facilities.

Present Implementation Status

This recommendation is not yet implemented. Review of reports provided by the program showed timely inspections of all county motor vehicle graveyards are not being completed. Twenty-two county motor vehicle graveyards or 36.7 percent had not been inspected for five or more years. Since our follow-up work, state program staff indicate inspections have been completed on 14 motor vehicle graveyards. As was mentioned previously, our inspections of county motor vehicle graveyards also found concerns with shielding, salvage control, vehicles storage, and debris in and around graveyards.

There are 60 county motor vehicle graveyards serving 56 counties in the state. The following lists all graveyards and the years since the last inspection.

Table 3

Junk Vehicle Program
County Motor Vehicle Graveyard Inspection History

Years Since Last Inspection	Number of Graveyards	Percentage of Total Graveyards
14	1	1.6
10	1	1.6
7	7	11.7
6	4	6.7
5	9	15.0
4	4	6.7
3	8	13.3
2	4	6.7
1 or less	22	36.7
	60	100.0

Source: Compiled by Office of the Legislative Auditor

Without timely inspections, county staff have less incentive to maintain compliance with statutes or rules.

Prior to our follow-up review, staff did not have an organized plan for inspections. Program staff have since put together schedules for county motor vehicle graveyard inspections.

Timely inspections of county motor vehicle graveyards by state program staff would help ensure county compliance with statutes and administrative rules.

Statute and Administrative Rule Conflict Has Been Addressed

Recommendation #12

We recommend the department:

A. Seek legislative clarification of statutory provisions pertaining to regulation of less than four junk vehicles in one location; or,

B. Delete administrative rules pertaining to regulation of less than four junk vehicles.

Initial Agency Response

A. We concur.

B. We do not concur. As mentioned in the department's response to part A of this recommendation we believe that

the legislature fully intended for the department to regulate less than four junk vehicles in one location. To remove all administrative rules that pertain to this situation without legislative direction would be a disservice to the people of Montana.

Present Implementation Status

Both Part A and Part B of this recommendation are fully implemented. The department has implemented both of these recommendations. Legislative changes in statutes during the 1991 Legislative Session included adding a new section addressing general requirements of shielding and removal of junk vehicles. This change, along with the already established definition of a motor vehicle wrecking facility, clarifies regulations not only for less than four junk vehicles, but also in dealing with four or more vehicles. The department deleted administrative rules pertaining to regulation of less than four junk vehicles.

Chapter III - Other Areas

Introduction

This chapter discusses additional follow-up work completed during this review. Compliance testing was completed regarding new/revised statutes and rules. A review of the Junk Vehicle Program expenditures, revenues, and fund balances was also completed.

Program is in Compliance with New/Revised Statutes

During our follow-up review, we completed compliance testing regarding new/revised statutes and departmental rules implemented since our 1990 audit. During the 1991 Legislature, the department initiated statutory changes. These changes in statute also required changes to administrative rules. Statutes now require county directors to inspect motor vehicle wrecking facilities. Administrative rules require these inspections to be completed annually. In addition, a new statute clarified the decision making criteria for licensing of wrecking facilities and county motor vehicle graveyards; clarified injunctive proceedings; and clarified the authority of the Department of Justice. In general, we found the department is in compliance with these statutes and rules.

Junk Vehicle Program Expenditures and Revenues

The Junk Vehicle Program receives revenue from three sources. The largest portion is from earmarked fees charged for motor vehicle license re-registration and title transfers. The current fee level is 50 cents for each re-registration and $1.50 for each title transfer. Program revenue is also realized from the sale of junk vehicles to crushing contractors. This revenue source is dependant on the strength of the scrap metal market and the tonnage of vehicles available for recycling. The Junk Vehicle Program has received contingency appropriation authority of $30,000 to be used should scrap metal prices fall and contractors charge for crushing services. The third revenue source for the Junk Vehicle Program is from motor vehicle wrecking facility licensing fees. Wrecking facilities are required to pay an annual licensing fee of $50.

Expenditures for the program include administrative costs and grants to counties for operating county motor vehicle programs. The following table provides a history of expenditures and revenues for the program since our audit in 1990.

Table 4

Junk Vehicle Program Expenditures and Revenues
(Fiscal Years 1989-90 through 1991-92)

Expenditures	FY 1989-90	FY 1990-91	FY 1991-92
Personal Services	$ 94,661	$ 97,113	$106,609
Operating Expense	35,674	37,295	43,488
County Grants	783,099	791,784	789,250
Prior Year Adjustment	(123,874)	(81,186)	(93,876)
Total	$ 789,560	$845,006	$845,471
Revenues			
Motor Vehicle Fees			
Registration Fees	$371,475	$378,475	$429,305(a)
Title Transfers	289,073	287,396	345,314(a)
Junk Vehicle Sales	213,640	220,474	124,218
Wrecking Fac. Lic.	10,563	10,163	10,050
Prior Year Adjustment	(1,000)	(150)	0
Total	$883,751	$896,358	$908,887

(a) Re-registration and title transfers received from counties for this fiscal year included an extra month, due to a legislative requirement for counties to estimate revenues for last month of fiscal year.

Source: Compiled by the Office of the Legislative Auditor from Junk Vehicle Program records

According to program staff, the Junk Vehicle Program had approximately $39,000 in vacancy savings for fiscal year 1991-92.

The following table shows estimated operating expenditures and revenues provided by the Junk Vehicle Program for fiscal years 1992-93, 1993-94, and 1994-95. The 1991 Legislature maintained a maximum of $800,000 total for county grants for fiscal years 1991-92 and 1992-93. This cap on county grants resulted in counties receiving less than the $1.00 per licensed vehicle allowed by statute. Recent legislation gave the Junk Vehicle Program authority to again provide counties with up to $1.00 for

each motor vehicle licensed in that county. Therefore, according to program staff, county grants will increase.

Table 5

Junk Vehicle Program Expenditures and Revenues
(Fiscal Years 1992-93 through 1994-95)

	FY 1992-93 APPROPRIATED	FY 1993-94 REQUESTED	FY 1994-95 REQUESTED
Expenditures			
Personal Services	$151,498	$ 133,344	$ 133,476
Operating Expense	80,344(a)	80,655(b)	89,511(c)
County Program Grants	800,000	851,836	869,254
Prior Yr Adj (Est)	(57,594)	-0-	-0-
TOTAL	$974,248	$1,065,835	$1,092,241
Estimated Revenues			
Motor Vehicle Fees			
Registration Fees	$389,914	$ 395,763	$ 401,700
Title Transfer	296,082	300,523	305,030
Junk Vehicle Sales	175,000	120,000	140,000
Wrecking Fac. License	10,300	10,400	10,500
Prior Yr. Adj (Est)	3,369	-0-	-0-
TOTAL	$874,665	$ 826,686	$ 857,230

(a) Includes $30,000 contingency appropriation to be used should scrap metal prices fall and contractors charge for crushing services.
(b) Includes $30,000 contingency as mentioned above and $2,000 for purchase of the program's portion of a network server.
(c) Includes $30,000 contingency as mentioned above and $10,000 for purchase of the program's portion of a pickup.

Source: Compiled by the Office of the Legislative Auditor from Junk Vehicle Program records

Special Revenue Account Fund Balance

Another objective of our follow-up review was to provide an update on the fund balance of the Junk Vehicle Special Revenue Fund Account. The following is a table of the fund balances for the Junk Vehicle Program at the end of fiscal years 1988-89, 1989-90, 1990-91, and 1991-92. Also included in the table are program estimated fund balances for the end of fiscal years 1992-93, 1993-94, and 1994-95.

Table 6

Junk Vehicle Program Special Revenue Fund Balance

Actual Fiscal Year-End Fund Balances	
FYE 06/30/89	$610,261
FYE 06/30/90	$706,509
FYE 06/30/91	$757,862
FYE 06/30/92	$821,278
Estimated Fiscal Year-End Fund Balance	
FYE 06/30/93	$721,695
FYE 06/30/94	$482,546
FYE 06/30/95	$247,535

Source: Compiled by Office of Legislative Auditor from Junk Vehicle Program Records

Since our initial audit, the fund balance has grown substantially with the first decrease in the balance to occur during the current (1992-93) fiscal year. The fund balance is probably higher than necessary to meet current program needs. However, the Junk Vehicle Program staff projects the Special Revenue Fund balance to gradually decrease due to increased county grant expenditures. Another factor staff is considering is the volatility of the scrap metal market. If the fund balance drops below an unacceptable balance, the program has two options to increase the balance: 1) re-implement grant expenditure caps; or 2) request an increase in vehicle registration and/or title transfer fees.

Follow-up Review Summary

We identified several improvements to the operation of the program since our 1990 audit of the Junk Vehicle Program. These improvements include:

> Program staff are using the budget process to encourage county programs to comply with statutes and rules.

> The Junk Vehicle Program staff revised crushing contract specifications to help ensure the state receives reimbursement for all recycled vehicles.

> Program staff developed a database system which documents enforcement and compliance status and provides state and county program staff with pertinent management information.

> Program staff developed and implemented a training schedule for county staff.

> Through changes in statutes and administrative rules, county directors are required to complete annual inspections of wrecking facilities, and clarification was completed concerning regulation of less than four junk vehicles in one location.

The Junk Vehicle Program could improve its operations by implementing the following:

> Accurate reporting of junk vehicle inventory by county programs.

> Active enforcement of statutes and administrative rules addressing shielding and reporting requirements; and wrecking facility licenses.

> Controls to ensure compliance concerns are identified, monitored, and resolved.

> Request for statutory authority to issue probationary or provisional licenses for facilities with continual violations.

> Periodic review of status of goals and objectives.

> Formal, documented policies and procedures, and a manual for all state and county staff.

> Timely inspections of county motor vehicle graveyards.

The Junk Vehicle Program is not completely meeting legislative intent or its statutory responsibility. The program should emphasize implementation of the remaining audit recommendations, especially timely enforcement of county motor vehicle graveyards and wrecking facilities compliance with applicable statutes and rules.

Current revenue and expenditure levels remain fairly consistent and the program fund balance is currently adequate to meet program needs.

Agency Response

DEPARTMENT OF
HEALTH AND ENVIRONMENTAL SCIENCES
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June 9, 1993

JUN 10

Jim Pellegrini, Deputy
Legislative Performance Audits
Office of the Legislative Auditor
Room 135, State Capitol
P.O. Box 201705
Helena, MT 59620-1705

Dear Mr. Pellegrini:

Enclosed you will find the written responses to the follow-up performance review of the Motor Vehicle Recycling & Disposal Program. We ask that these responses be included in the final report.

We are also returning the final draft copies of the report used to prepare our responses.

Sincerely,

Bob Robinson

Robert J. Robinson
Director

enc.

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Motor Vehicle Recycling & Disposal Program

Responses to the Performance Audit Review

Written Response

June 9, 1993

CHAPTER II
Introduction
Agency General Comment

The Junk Vehicle Program is striving to make improvements in response to the Legislative Auditor's Recommendations, but is limited in its ability to do so given the small staffing and resources. Major program improvements will require a larger staff and a greater amount of resources.

Responses:

Recommendations Numbers 1, 3, 4, 5c, 7, 10, 12a and 12b

Present Implementation Status

This recommendation is fully implemented.

Agency Response

We concur.

Recommendation #2

We recommend the department develop and require the use of standard inventory procedures and release of vehicle ownership forms by the counties.

Present Implementation Status

This recommendation is partially implemented.

Agency Response

We concur. The program will develop a formal written procedural manual for distribution to the counties.

As originally stated in the agency response to the 1990 Audit, inventory records that **counties** are required to maintain are identical from county to county which, in turn, implies that the procedures for keeping the records are also identical. The procedural problems noted in the follow up audit are identified as timely submittal of the inventory reports and the associated records. High turnover in county personnel has directly contributed to this problem, and the department can do little to prevent this.

Recommendation #5

We recommend the department:

A. Actively enforce statutes and administrative rules.

B. Establish controls to ensure compliance concerns are identified, monitored, and resolved.

C. Implement a data processing system to document enforcement and compliance status.

Part A Present Implementation Status

Part A of this recommendation is not yet implemented.

Agency Response

We do not concur with this implementation status designation. It is the department's position that this recommendation is, at the very least, partially implemented.

Compliance with the statute and rules is the goal of the program. While we agree that compliance problems continue to exist statewide, enforcement is one tool used to achieve compliance. Current program staffing limits the department's ability to enforce the statute and rules.

During the past eighteen months the program has become more aggressive in pursuing enforcement of the statute and rules, and, as a result, achieved more voluntary compliance. This is evidenced by: 1) the significant increase in the number of civil enforcement actions filed and successfully pursued through court; 2) by the increased number of program initiated compliance plans; and 3) a resultant increase in county enforcement awareness and activities.

As one step towards more active enforcement, the program has been authorized to increase one program position from 0.5 FTE to 1.0 FTE effective July 1, 1993. This position will expand its current responsibilities to address additional inspection, enforcement, licensing, and other program needs. Although this is one step, limited program staffing will continue to define the program's ability to pursue enforcement and to achieve a higher degree of compliance statewide.

The program has made changes in the internal license renewal procedure. The change was implemented as an enforcement tool to identify and address each individual facility's compliance status **prior** to re-licensure. The actual procedural change is that license renewal approval is withheld until the department has received an inspection report from the county. This enforcement tool relies upon objective and thorough annual inspections of motor vehicle wrecking facilities being performed by the counties. Admittedly, the procedural change has resulted in delays in license issuance. As noted in the follow up audit report, the program is investigating ways of resolving this license vs. compliance status determination conflict.

The follow up legislative audit has also recommended that facilities that do not possess a current license should be closed by the department. For those facilities that are knowingly operating without a valid license and that have not applied for a license or a license renewal, forced closure is appropriate. For those facilities that have applied for license renewal, however, experience has shown that it is not logical, nor is it cost effective, to undertake the resource intensive civil court action necessary to close a facility. This is particularly true if the facility is in compliance but such compliance simply has not been documented.

Part B Present Implementation Status

Part B of this recommendation is partially implemented.

Agency Response

We concur. Limited program staffing together with high staff turnover at both the state and the county levels have been detrimental to achieving timely compliance.

As noted in the response to Part A Implementation Status, the program has made both procedural and structural program modifications and refinements in an effort to attain more timely compliance. Additional controls will be established as program staffing and responsibilities allow.

Recommendation #6

We recommend the department implement administrative rules to allow for the issuance of probationary MVWF licenses.

Present Implementation Status

This recommendation is not yet implemented.

Agency Response

We concur with the status, but not with the recommendation. Please refer to the response for Recommendation #5 Part A for discussion.

The intent of this recommendation is to provide an additional tool to achieve compliance. However, facility compliance failure will still end in the same result...namely forced facility closure. Current program statutes and rules define the procedures to be utilized to achieve this end result.

Recommendation #8

We recommend the department establish specific documented goals and objectives for the Junk Vehicle Program and conduct periodic reviews to determine attainment of the goals.

Present Implementation Status

This recommendation is partially implemented.

Agency Response

We concur. As noted by the audit report, the program has established documented goals and objectives. The program will document the periodic reviews of the goals and objectives.

Distribution of the program goals and objectives to the counties will be done. It must be noted, however, that these goals and objectives will only be the state's and not necessarily those of the counties. Although the counties may adopt the state's goals and objectives in total, they may also establish their own. The county goals and objectives conceivably could be greater than, or less than, those of the state, as long as the requirements of the law and rules are met.

Recommendation #9

We recommend the department develop specific policies and procedures for the Junk Vehicle Program.

Present Implementation Status

This recommendation is not yet implemented.

Agency Response

We do not concur with this implementation status designation. It is the department's position that this recommendation is, at the very least, partially implemented.

As noted in the follow up audit report, the department has provided numerous informational, legal, and guidance documents to the counties. Although all of these documents have not been brought together into a single reference book, the information has been supplied to the counties.

The department does agree, however, that there is a need for a formal program book containing numerous items, including a compilation of procedures and policies. As staff time allows, the program will develop such a document. However, the program cannot set a specific time frame for completion of this project.

Recommendation #11

We recommend the department conduct timely inspections of county motor vehicle graveyards.

Present Implementation Status

This recommendation is not yet implemented.

Agency Response

We do not concur with this implementation status designation. It is the department's position that this recommendation is, at the very least, partially implemented.

County motor vehicle graveyard (CMVG) inspection activity has significantly increased as the staff becomes trained and as other program requirements are met. Currently, well over 50% of the 60 CMVG's have been inspected within the last two years, with the majority of the inspections occurring within the last year. Program staff have scheduled, and will be conducting, additional CMVG inspections during the next few months.